

REMARKS

The Office Action dated July 23, 2008, has been received and carefully noted. The above amendments and the following remarks are being submitted as a full and complete response thereto.

Claims 1 – 8 are rejected. Claim 6 is amended. Thus, Claims 1-8 are pending in this application. Support for the amendments may be found in the specification as originally filed. Applicant submits that no new matter is added. Applicant respectfully requests reconsideration and withdrawal of the rejections.

Rejection Under 35 U.S.C. §112

Claims 5 – 8 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

The Office Action states that the phrase “high voltage charging circuit” in Claim 5 is rejected, as “high voltage” is a relative term which renders the claim indefinite. The Applicant respectfully submits that “high voltage” is a term of art that is clear and unambiguous in meaning to a person of ordinary skill in the art of electrostatics. The International Electrotechnical Commission and its national counterparts (IET, IEEE, VDE, etc.) define *high voltage* circuits as those with more than 1000 V for alternating current and at least 1500 V for direct current, and distinguish it from low voltage (50–1000 V AC or 120–1500 V DC) and extra low voltage (<50 V AC or <120 V DC) circuits. High voltage, http://en.wikipedia.org/w/index.php?title=High_voltage&oldid=246084525 (last visited Oct. 22, 2008). Moreover, the application as originally filed states that the electrode is coupled via a conductor to a high voltage charging circuit, and “the

electrode is charged up to a voltage of around 85KV." See page 6, lines 15-17. As such, Applicant respectfully submits that one with ordinary skill in the art would recognize and understand the term "high voltage" so as to be "reasonably apprised of the scope of the invention."

The Office Action states that Claim 6 is rejected due to the phrase "comprising for vibrating or shaking the chute" as it is unclear what is "vibrating or shaking the chute" since it appears that some words are missing. Claim 6 has been amended in a manner believed responsive to the rejection.

Applicant respectfully requests withdrawal of the §112 rejection of Claims 5 – 8.

Rejection Under 35 U.S.C. §102

Claims 1 and 4 are rejected under 35 U.S.C. §102(b) as being anticipated by Dunaway (U.S. Patent No. 3,114,482, hereinafter "Dunaway"). Applicant respectfully traverses this rejection for at least the following reason(s).

Claim 1 recites a method of coating a product, carried on a surface of a delivery mechanism, with a coating substance, that includes delivering the coating substance to a location above said surface carrying said product via an inclined chute down which the coating substance falls under gravity; allowing the coating substance to fall under gravity in the direction of said surface from the end of the inclined chute; and during its fall under gravity, and substantially immediately beneath the exit end of said inclined chute, subjecting the coating substance to at least one pressurized gas stream delivered by a gas jet nozzle, whereby the falling coating substance is dispersed, and to an electric field generated by an electrode attached to or located adjacent to said nozzle, whereby the coating substance is charged.

Dunaway discloses the dispensing of a dry powder material from a reservoir in which the powder is delivered onto the surface of a roller. The reservoir comprises a pair of end plates 20 and 24 and side wall member 24 and 26. A cylindrical roller 30 with shaft 32 is journaled in bearings in the end plates. A longitudinally extending "wiper blade" 40 is secured to the wall 24 by screws 42 and downwardly projects therefrom into resilient tangential engagement with the lower peripheral surface of the roller 30. The Office Action asserts that the "wiper blade" 40 is the same as the inclined chute recited in Claim 1 (see page 3, lines 2-4, of the Office Action). The Applicant respectfully disagrees. One of ordinary skill in the art would not confuse a "wiper blade" with a chute, which can be defined as "[a]n inclined trough, passage, or channel through or down which things may pass." *The American Heritage® Dictionary of the English Language, Fourth Edition*. Houghton Mifflin Company, 2004. <http://dictionary.reference.com/browse/chute> (accessed: October 22, 2008). The "wiper blade" 40 of Dunaway is not a trough, passage or channel.

Furthermore, Applicant submits that Dunaway does not teach or suggest that the falling coating substance is subjected to at least one pressurized gas stream delivered by a gas jet nozzle, whereby the falling coating substance is dispersed, as recited by Claim 1. Rather, Dunaway teaches of an air curtain, which is used to "act as a curtain for the falling powder and maintain the dusting cloud within a generally restricted zone" (see Col. 4, lines 17-19). Although the air tubes 60, 62 may be rotatably adjustable over a wide range, they do not act to disperse the falling powder. Rather, they are intended to confine the falling powder. As such, Applicant submits that Dunaway actually teaches away from a pressurized gas stream for dispersing the falling coating

substance. Dunaway does not disclose, as asserted by the Office Action, that "the air streams must act with a force which maintains this zone by blowing the falling powder, where blowing the falling powder positively would cause the coating substance to be dispersed, where the dispersion takes place in a defined application area" (see page 10, lines 24-27, of the Office Action). Applicant respectfully submits that the Office Action assertion is completely unsupported by documentary evidence. It is requested that the specific support for such a characterization be pointed out.

Dunaway has an electrostatic charging tube for wiping the surface of the roller clean of any powder adhering thereto. (Column 4, lines 2 – 14). Dunaway specifically teaches the undesirability of having the particles of powder themselves charged. (Column 1, lines 24 – 32). In contrast, Claim 1 recites subjecting the coating substance to an electric field whereby the coating substance takes on a charge.

In order to anticipate a claim, a reference must contain all of the limitations claimed in the same manner as the claim. Dunaway fails to disclose or suggest each and every one of the limitations of Claim 1 and even teaches away from particular limitations of Claim 1, as noted above. Claim 4 depends from Claim 1. Consequently, Applicant submits that there is no anticipation.

Applicant respectfully requests withdrawal of the rejection.

Rejection Under 35 U.S.C. §103

Claims 1 – 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yonkers et al. (U.S. Patent No. 3,221,938, hereinafter "Yonkers") in view of Watkins (U.S. Patent No. 3,468,691, hereinafter "Watkins"). Applicant respectfully traverses the rejection for at least the following reason(s).

Yonkers delivers a powder onto the surface of a roller from which the powder falls under its own weight. Yonkers also makes use of pressurized air streams to confine the falling powder within an area beneath the dispensing roller and makes use of an electrode to generate an electrostatic field in order to help free powder particles from the roller.

The Office Action asserts that Yonkers teaches most aspects of the claimed invention except coating a product carried on a surface of a delivery mechanism, and vibrating and shaking the chute to disperse the coating substance and to aid transfer of the substance along the chute. The Office Action asserts that Watkins cures these deficiencies.

As with Dunaway discussed above, Yonkers does not teach or suggest an "inclined chute" as asserted. Rather, Yonkers also discloses a wiping blade 70 that acts along with the roller 60 to form a metering mechanism for the powder sprayer. For the same reasons as discussed with Dunaway, the wiping blade 70 is clearly not a chute. Moreover, the purpose of the electrostatic field in Yonkers is to help free powder particles from the dispensing roller and subsequently disperse the particles (see Column 4, lines 26-29). Yonkers does not teach or suggest charging the coating substance during its fall under gravity. Contrary to the Office Action assertion, unsupported by the prior art documentation, that the "powder material is aided in dispersing due to the particles being charged by the electric field generated by the high voltage source" (see page 10, lines 10-13, of the Office Action); Yonkers actually discloses an alternating electric field between the electrode and the dispensing roller

which is grounded (see Column 2, lines 53-55). As such, the alternating electric field ensures no net charge will be provided to any of the powder in the Yonkers device.

Furthermore, although the Office Action suggests wiping blade 72 may also be a chute, Yonkers discloses that the "function of wiping blade 72 is to provide a seal completing the powder reservoir to thereby retain the powder above the dispensing roller" (see Column 3, lines 59-61). As such, the electrode structure 79 in Yonkers, as well as the asserted gas jet nozzles 94 and 96, are not located substantially immediately beneath the exit end of the wiping blade (chute) 70 for charging the coating substance as it falls under gravity, as similarly recited in Claims 1 and 5 of the present invention. Moreover, Yonkers discloses that the plenum chambers, 94 and 96, with a series of small holes 95, create an "air curtain which tends to confine the powder material in the area directly beneath the dispensing roller" (see Column 4, lines 30-37). As with Dunaway, the Applicant respectfully submits that the plenum chambers 94 and 96 of Yonkers actually teach away from a pressurized gas stream for dispersing the falling coating substance, as claimed in the present invention. The Office Action urges the Applicant to Yonkers at Column 4, lines 32-37, and asserts that "the air streams must act with a force which maintains this zone by blowing the falling powder, where blowing the falling powder positively would cause the coating substance to be dispersed, where the dispersion takes place in a defined application area." See page 10, lines 4-8, of the Office Action. Applicant respectfully submits that the Office Action assertion is completely unsupported by documentary evidence. There is no discussion in Yonkers of the force employed by the "air curtains" or that there is any dispersion of

the particles as they fall. There is nothing in Yonkers that teaches or suggests that the "air curtains" do anything more than confine the falling particles.

Applicant respectfully submits that Watkins fails to cure the deficiencies of Yonkers. Watkins teaches of causing particles to be attracted to an electrostatic charge to enable the particles to levitate prior to falling onto the delivery surface below. Watkins does not teach or suggest a chute. Watkins does not teach or suggest charging the coating substance as it falls under gravity or subjecting the coating substance to a pressurized gas stream delivered by a gas jet nozzle located substantially immediately beneath the exit end of the chute for dispersing the coating substance, as recited in the claims of the present invention.

Absent any teachings of the claimed features, the Office Action fails to make a *prima facie* rejection of Claims 1-8. Clear differences exist between the invention as claimed and the prior art relied upon in the Office Action. It is respectfully submitted that these differences are more than sufficient that the present invention as claimed would not have been obvious to a person of ordinary skill in the art at the time the invention was made viewing that prior art.

Double Patenting

Claims 1 – 9 were also provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over (a) claim 1 of copending Application No. 11/166175 taken in view of Dunaway, (b) claim 1 of copending Application No. 10/959300 taken in view of Dunaway, and (c) claim 1 (or 3?) of Application No. 11/141050 taken in view of Dunaway. These rejections are traversed.

Application No. 11/166,175 claims the spraying of a coating substance onto one side of a product and subsequent charging of the overspray to attract the coating substance back towards the product. 11/166,175 does not claim, nor does Dunaway teach or suggest (as discussed above), the charging of a coating substance during its fall under gravity from an inclined chute, wherein substantially immediately beneath the exit end of said inclined chute the coating substance is subjected to at least one pressurized gas stream delivered by a gas jet nozzle, whereby the falling coating substance is dispersed.

Application No. 10/959,300 claims the method of continuously spraying an electrostatically charged flavouring mist onto an end face of an elongated product during slicing at the end face. 10/959,300 does not claim, nor does Dunaway teach or suggest (as discussed above), the charging of a coating substance during its fall under gravity from an inclined chute, wherein substantially immediately beneath the exit end of said inclined chute the coating substance is subjected to at least one pressurized gas stream delivered by a gas jet nozzle, whereby the falling coating substance is dispersed.

Application No. 11/141,050 claims a method of coating a product, that includes delivering the product to a top end of an inclined chute, the chute comprising at least one mesh portion provided in its conveying surface, allowing the product to fall along the conveying surface, and when the product passes over the at least one mesh portion during its fall, spraying the product with a coating. 11/141,050 does not claim, nor does Dunaway teach or suggest (as discussed above), the charging of a coating substance during its fall under gravity from an inclined chute, wherein substantially immediately

beneath the exit end of said inclined chute the coating substance is subjected to at least one pressurized gas stream delivered by a gas jet nozzle, whereby the falling coating substance is dispersed.

Sufficient clear differences exist between the claims of the copending applications, even when considered with Dunaway, that the present invention as claimed in this application would not have been obvious to a person of ordinary skill in the art at the time the invention was made. There is no possibility of an unjustified or improper time wise extension of the "right to exclude" or any possible harassment by multiple assignees. It is requested that these provisional rejections be withdrawn.

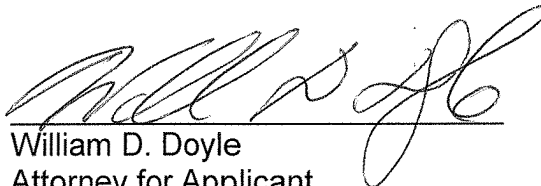
Conclusion

In view of the above, the Applicant respectfully requests withdrawal of the outstanding rejections, allowance of Claims 1-8, and the prompt issuance of a Notice of Allowability.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing docket number 030977-00002.**

Respectfully submitted,
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